

SWORN AFFIDAVIT OF SPECIAL AGENT KENDRA HOLLOWAY

I, Kendra Holloway, being first duly sworn, hereby depose and state as follows:

**INTRODUCTION AND AGENT BACKGROUND**

1. I make this affidavit in support of an application for a search warrant for information associated with certain Facebook user IDs that are stored at premises owned, maintained, controlled, or operated by Facebook Inc. ("Facebook"), a social networking company headquartered in Menlo Park, California. The information to be searched is described in the following paragraphs and in Attachment A. This affidavit is made in support of an application for a search warrant under 18 U.S.C. §§ 2703(a), 2703(b)(1)(A), and 2703(c)(1)(A) to require Facebook to disclose to the government records and other information in its possession, pertaining to the subscriber or customer associated with the Subject user IDs.
2. I am a Special Agent with the Federal Bureau of Investigation ("FBI"), and have been since August 2016. I have received extensive training involving the investigation of federal crimes at the FBI Academy during new agent's training, and through continual training and experience as a Field Agent. As part of my duties, I have investigated numerous violations of federal law, including investigating violations involving violent crime, violations involving electronic devices, and social media accounts. Currently, I am assigned to the Bismarck Resident Agency of the FBI, where I have been assigned since February 2017. The information contained in this affidavit is based on my information and belief.
3. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other law enforcement officials and witnesses. This affidavit is intended to show that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.
4. Based on my training and experience and the facts as set forth in this affidavit, there is probable cause to believe that violations of 18 U.S.C. §§ 1111 and 1153 have been committed by an unknown subject. There is also probable cause to search the information described in Attachment A for evidence of these crimes, as described in Attachment B.
5. On 12/25/2018, writer received a telephone call from Bureau of Indian Affairs (BIA) Special Agent Chad Harmon (SA Harmon) who stated the body of Sheryl Lavonne Kidder (KIDDER), DOB xx-xx-1973, had been discovered in her home, 5669 Douglas Sky Memorial Complex, Ft. Yates, ND, after Law Enforcement received a report that there was a lady lying naked and bleeding at the aforementioned apartment complex. Writer responded to the scene and discovered KIDDER was deceased. Upon further examination of KIDDER's body,

writer and SA Harmon discovered what appeared to be a large laceration located on KIDDER's right wrist.

6. On 12/28/2018, Myron Iron Shield was interviewed and stated KIDDER had a phone and Facebook account. Myron stated KIDDER usually communicated with people via Facebook messenger.

7. On the same date, Jamie Rae Grey Bull (Grey Bull), was interviewed and stated KIDDER sent her a Facebook Message that said "What are you doing? Where are you at?" on the same night KIDDER passed away. GREY BULL stated she didn't answer KIDDER back and erased the message. Grey Bull stated then at 11:30pm, 12/24/2018, KIDDER called her on Facebook Messenger, but she [Grey Bull] didn't answer it. Grey Bull stated KIDDER had two Facebook profiles. Grey Bull stated the Facebook profile username KIDDER contacted her from was "SHERYL CHASEALONE."

8. On 01/08/2019, Ira Hanson (Ira) was interviewed and stated the last time KIDDER sent him a message was on 12/20/2018. Ira stated the last time he sent KIDDER a message was on 12/24/2018. Ira stated he waved and asked KIDDER if she was home but KIDDER never answered. Ira stated he utilized Facebook messenger to send KIDDER the messages. Ira stated KIDDER's Facebook profile name was just "Sheryl," and allowed writer to visually verify the profile name and date(s) the messages were sent.

9. 01/16/2019, your affiant conducted a search of the internet website Facebook.com and submitted a preservation request for the following Facebook Accounts associated with KIDDER: Username: Sheryl Chasealone, User ID: 100025693944317, Username: Sheryl Chasealone, User ID: 100024772478476, Username: Sheryl Chasealone, User ID: 100029424605288, In response, On 01/16/2019, your affiant received a confirmation email from Facebook which stated "We have taken reasonable steps to preserve the account(s) you requested. Your case number is 2290178."

10. On 01/10/2019, Carol Jewett (Carol) was interviewed and stated on 12/22/2018, Kirk Keeps Eagle (Kirk) gave KIDDER twenty dollars to get drugs, but KIDDER was unable to get any drugs. Carol stated as a result, Kirk asked KIDDER for his money back. Carol stated Kirk got mad and started yelling around. Carol stated she told Kirk let's go. Carol stated she did not know from that point on what Kirk did. Carol stated the next thing she remembered was coming out the door and getting in the car. Carol stated she thought KIDDER was standing at the door when she and Kirk left and she did not know if KIDDER was injured. Carol and Kirk are the last two known individuals to see KIDDER alive.

11. Based on the above information, your affiant requests the records for the aforementioned Facebook Accounts associated with KIDDER in order to establish a timeline of the events which occurred leading up to her death.

### **TECHNICAL BACKGROUND ON FACEBOOK**

12. Facebook owns and operates a free-access social networking website of the same name that can be accessed at <http://www.facebook.com>. Facebook allows its users to establish accounts with Facebook, and users can then use their accounts to share written news, photographs, videos, and other information with other Facebook users, and sometimes with the general public.

13. Facebook asks users to provide basic contact and personal identifying information to Facebook, either during the registration process or thereafter. This information may include the user's full name, birth date, gender, contact e-mail addresses, Facebook passwords, Facebook security questions and answers (for password retrieval), physical address (including city, state, and zip code), telephone numbers, screen names, websites, and other personal identifiers. Facebook also assigns a user identification number to each account.

14. Facebook users may join one or more groups or networks to connect and interact with other users who are members of the same group or network. Facebook assigns a group identification number to each group. A Facebook user can also connect directly with individual Facebook users by sending each user a "Friend Request." If the recipient of a "Friend Request" accepts the request, then the two users will become "Friends" for purposes of Facebook and can exchange communications or view information about each other. Each Facebook user's account includes a list of that user's "Friends" and a "News Feed," which highlights information about the user's "Friends," such as profile changes, upcoming events, and birthdays.

15. Facebook users can select different levels of privacy for the communications and information associated with their Facebook accounts. By adjusting these privacy settings, a Facebook user can make information available only to himself or herself, to particular Facebook users, or to anyone with access to the Internet, including people who are not Facebook users. A Facebook user can also create "lists" of Facebook friends to facilitate the application of these privacy settings. Facebook accounts also include other account settings that users can adjust to control, for example, the types of notifications they receive from Facebook.

16. Facebook users can create profiles that include photographs, lists of personal interests, and other information. Facebook users can also post "status" updates about their whereabouts and actions, as well as links to videos, photographs, articles, and other items available elsewhere on the Internet. Facebook users can also post information about upcoming "events," such as social occasions, by listing the event's time, location, host, and guest list. In addition, Facebook users can "check in" to particular locations or add their geographic locations to their Facebook posts, thereby revealing their geographic locations at particular dates and times. A particular user's profile page also includes a "Wall," which is a space

where the user and his or her “Friends” can post messages, attachments, and links that will typically be visible to anyone who can view the user’s profile.

17. Facebook allows users to upload photos and videos, which may include any metadata such as location that the user transmitted when s/he uploaded the photo or video. It also provides users the ability to “tag” (i.e., label) other Facebook users in a photo or video. When a user is tagged in a photo or video, he or she receives a notification of the tag and a link to see the photo or video. For Facebook’s purposes, the photos and videos associated with a user’s account will include all photos and videos uploaded by that user that have not been deleted, as well as all photos and videos uploaded by any user that have that user tagged in them.

18. Facebook users can exchange private messages on Facebook with other users. These messages, which are similar to e-mail messages, are sent to the recipient’s “Inbox” on Facebook, which also stores copies of messages sent by the recipient, as well as other information. Facebook users can also post comments on the Facebook profiles of other users or on their own profiles; such comments are typically associated with a specific posting or item on the profile. In addition, Facebook has a Chat feature that allows users to send and receive instant messages through Facebook. These chat communications are stored in the chat history for the account. Facebook also has a Video Calling feature, and although Facebook does not record the calls themselves, it does keep records of the date of each call.

19. If a Facebook user does not want to interact with another user on Facebook, the first user can “block” the second user from seeing his or her account.

20. Facebook has a “like” feature that allows users to give positive feedback or connect to particular pages. Facebook users can “like” Facebook posts or updates, as well as webpages or content on third-party (i.e., non-Facebook) websites. Facebook users can also become “fans” of particular Facebook pages.

21. Facebook has a search function that enables its users to search Facebook for keywords, usernames, or pages, among other things.

22. Each Facebook account has an activity log, which is a list of the user’s posts and other Facebook activities from the inception of the account to the present. The activity log includes stories and photos that the user has been tagged in, as well as connections made through the account, such as “liking” a Facebook page or adding someone as a friend. The activity log is visible to the user but cannot be viewed by people who visit the user’s Facebook page.

23. Facebook Notes is a blogging feature available to Facebook users, and it enables users to write and post notes or personal web logs (“blogs”), or to import their blogs from other services, such as Xanga, LiveJournal, and Blogger.

24. The Facebook Gifts feature allows users to send virtual “gifts” to their friends that appear as icons on the recipient’s profile page. Gifts cost money to purchase, and a personalized message can be attached to each gift. Facebook users can also send each other “pokes,” which are free and simply result in a notification to the recipient that he or she has been “poked” by the sender.

25. Facebook also has a Marketplace feature, which allows users to post free classified ads. Users can post items for sale, housing, jobs, and other items on the Marketplace.

26. In addition to the applications described above, Facebook also provides its users with access to thousands of other applications (“apps”) on the Facebook platform. When a Facebook user accesses or uses one of these applications, an update about that the user’s access or use of that application may appear on the user’s profile page.

27. Facebook uses the term “Neoprint” to describe an expanded view of a given user profile. The “Neoprint” for a given user can include the following information from the user’s profile: profile contact information; News Feed information; status updates; links to videos, photographs, articles, and other items; Notes; Wall postings; friend lists, including the friends’ Facebook user identification numbers; groups and networks of which the user is a member, including the groups’ Facebook group identification numbers; future and past event postings; rejected “Friend” requests; comments; gifts; pokes; tags; and information about the user’s access and use of Facebook applications.

28. Facebook also retains Internet Protocol (“IP”) logs for a given user ID or IP address. These logs may contain information about the actions taken by the user ID or IP address on Facebook, including information about the type of action, the date and time of the action, and the user ID and IP address associated with the action. For example, if a user views a Facebook profile, that user’s IP log would reflect the fact that the user viewed the profile, and would show when and from what IP address the user did so.

29. Social networking providers like Facebook typically retain additional information about their users’ accounts, such as information about the length of service (including start date), the types of service utilized, and the means and source of any payments associated with the service (including any credit card or bank account number). In some cases, Facebook users may communicate directly with Facebook about issues relating to their accounts, such as technical problems, billing inquiries, or complaints from other users. Social networking providers like Facebook typically retain records about such communications, including records of contacts between the user and the provider’s support services, as well as records of any actions taken by the provider or user as a result of the communications. Facebook may send messages to the account holder.



30. As explained herein, information stored in connection with a Facebook account may provide crucial evidence of the “who, what, why, when, where, and how” of the criminal conduct under investigation, thus enabling the United States to establish and prove each element or alternatively, to exclude the innocent from further suspicion. In my training and experience, a Facebook user’s “Neoprint,” IP log, stored electronic communications, and other data retained by Facebook, can indicate who has used or controlled the Facebook account. This “user attribution” evidence is analogous to the search for “indicia of occupancy” while executing a search warrant at a residence. For example, profile contact information, private messaging logs, status updates, and tagged photos (and the data associated with the foregoing, such as date and time) may be evidence of who used or controlled the Facebook account at a relevant time. Further, Facebook account activity can show how and when the account was accessed or used. For example, as described herein, Facebook logs the Internet Protocol (IP) addresses from which users access their accounts along with the time and date. By determining the physical location associated with the logged IP addresses, investigators can understand the chronological and geographic context of the account access and use relating to the crime under investigation. Such information allows investigators to understand the geographic and chronological context of Facebook access, use, and events relating to the crime under investigation. Additionally, Facebook builds geo-location into some of its services. Geo-location allows, for example, users to “tag” their location in posts and Facebook “friends” to locate each other. This geographic and timeline information may tend to either inculcate or exculpate the Facebook account owner. Last, Facebook account activity may provide relevant insight into the Facebook account owner’s state of mind as it relates to the offense under investigation. For example, information on the Facebook account may indicate the owner’s motive and intent to commit a crime (e.g., information indicating a plan to commit a crime), or a consciousness of guilt (e.g., deleting account information in an effort to conceal evidence from law enforcement).

31. Therefore, the electronic and digital data maintained by Facebook are likely to contain all the material described above, including stored electronic communications and information concerning the subscribers and their use of Facebook, such as account access information, transaction information, and other account information.

#### **INFORMATION TO BE SEARCHED AND THINGS TO BE SEIZED**

32. I anticipate executing this warrant under the Electronic Communications Privacy Act, in particular 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A), by using the warrant to require Facebook to disclose to the government copies of the records and other information (including the content of communications) particularly described in Section I of Attachment B. Upon receipt of the information described in Section I of Attachment B, government-authorized persons will review that information to locate the items described in Section II of Attachment B.

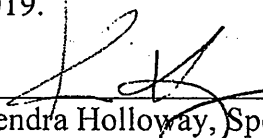
**CONCLUSION**

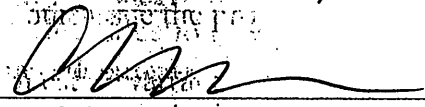
33. Based on the forgoing, I request that the Court issue the proposed search warrant.

34. This Court has jurisdiction to issue the requested warrant because it is "a court of competent jurisdiction" as defined by 18 U.S.C. § 2711. 18 U.S.C. §§ 2703(a), (b)(1)(A) & (c)(1)(A). Specifically, the Court is a United States District Court in the District of North Dakota that has jurisdiction over the offense being investigated.

35. Pursuant to 18 U.S.C. § 2703(g), the presence of a law enforcement officer is not required for the service or execution of this warrant.

Dated this 31 day of JANUARY 2019.

  
Kendra Holloway, Special Agent  
Federal Bureau of Investigation

Subscribed and Sworn to before me this <sup>4</sup>31 day of January, 2019 *b, Telephonically*  
  
CHARLES S. MILLER, JR.,  
United States Magistrate Judge